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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,045	08/18/2003	Dennis J. Gallant	7175-73311	3106
23643	7590	08/17/2004		EXAMINER
BARNES & THORNBURG				FETSUGA, ROBERT M
11 SOUTH MERIDIAN			ART UNIT	PAPER NUMBER
INDIANAPOLIS, IN 46204			3751	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/643,045 Examiner Robert M. Fetsuga	GALLANT, DENNIS J. Art Unit 3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 18, 19 and 21-32 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) 24 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 August 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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1. Applicant's election of Group II in Paper No. 07/06/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "configured to be coupled to a drain line" limitation set forth in claim 25 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in response to this Office action. Any proposal by applicant for amendment of the drawings to cure defects must consist of two parts:

- a) A separate letter to the draftsperson in accordance with MPEP 608.02(r); and
- b) A print or pen-and-ink sketch showing changes in red ink in accordance with MPEP 608.02(v).

IMPORTANT NOTE: The filing of new formal drawings to correct the noted defect may be deferred until the application is allowed by the examiner, but the print or pen-and-ink sketch

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with proposed corrections shown in red ink is required in response to this Office action, and may not be deferred.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "arranged to be operable in the first and second positions" language set forth in claim 18 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 25-32 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 25 recites a toilet "configured to be coupled to a drain line". Implementation of this subject matter is neither taught in the instant disclosure nor evident to the examiner.

5. Claims 21 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point

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out and distinctly claim the subject matter which applicant regards as the invention.

The claims depend from a cancelled claim.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 18, 19 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hubert.

The Hubert reference discloses a personal care module comprising: a housing including a first portion 28, a second portion 29 and a third portion 20-22; a washing station 27; and a toilet 26, as claimed. The wash station is "arranged to be operable in the first and second positions" since, for example, the wash bowl would "operate" in both positions should one decide to plug the drain outlet with a stopper. The broad claim language does not provide any distinguishing structure over the Hubert disclosure.

Applicant argues at page 8 of the response filed July 6, 2004 "discharge from the wash bowl is not intended to discharge onto the floor of the recess." The examiner can not agree. It

is noted there is no such statement in the Hubert disclosure.

Furthermore, if this functional capability was not "intended" by Hubert, it appears there would be some feature associated with the wash bowl to prevent such.

8. Claims 18, 19, 21-23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rivera.

The Rivera reference discloses a personal care module comprising: a housing including a first portion k, a second portion o and a third portion g; a washing station l; and a toilet p, as claimed. Re claim 18, the wash station is "arranged to be operable in the first and second positions" since, for example, the wash bowl would "operate" in both positions when the drain m is stopped by plug m'. The broad claim language does not provide any distinguishing structure over the Rivera disclosure. Re claim 25, the toilet is considered to be "configured to be coupled to a drain line" as this language does not define any function over that which Rivera is capable of performing. Moreover, the housing is capable of being used with a room wall and hospital bed in the functionally recited manner.

9. Claims 18, 21, 22, 25 and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell.

The Campbell reference discloses a personal care module comprising: a housing including a first portion G and a second portion A; a washing station (pg. 1, last full par., ln. 5); and a toilet a, as claimed. Re claim 25, the toilet is considered to be "configured to be coupled to a drain line" as this language does not define any function over that which Campbell is capable of performing. Re claim 30, the housing can be said to include a proximal end portion H and a distal end portion A, where the proximal end portion is "adapted to be coupled to the floor to establish the pivot axis", as broadly recited. Note the pivoting action in Fig. 3.

10. Claims 25, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Gordon.

The Gordon reference discloses a personal care module comprising: a housing 11; a toilet 27; a washing station 29,31-33; and a floor engaging element 20, as claimed. Re claim 25, the housing is capable of being used with a room wall and hospital bed in the functionally recited manner. Re claim 30, casters 20 inherently pivot which feature meets the broad functional language "adapted to be coupled to the floor to establish the pivot axis".

11. Claims 25-27, 29 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Parrish.

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The Parrish reference discloses a personal care module comprising: a housing A; a toilet C; a washing station including a sink G, and a faucet or bed pan washer 26; and a floor engaging element 23, as claimed. Re claim 25, the toilet is considered to be "configured to be coupled to a drain line" as this language does not define any function over that which Parrish is capable of performing. Furthermore, the housing is capable of being used with a room wall and hospital bed in the functionally recited manner. Re claim 30, casters 23 inherently pivot which feature meets the broad functional language "adapted to be coupled to the floor to establish the pivot axis".

12. Claims 25-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Pauna.

The Pauna reference discloses a personal care module comprising: a housing 12; a toilet 72; a washing station including a sink 32, and a faucet or bed pan washer (col. 3 lns. 18-19); and a floor engaging element 16, as claimed. Re claim 25, the housing is capable of being used with a room wall and hospital bed in the functionally recited manner. Re claim 28, locking casters 16 inherently pivot which feature meets the functional language "adapted to be coupled to a floor of the room for movement of the housing about a pivot axis".

13. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Applicant's remaining remarks have been fully considered and either have been previously addressed or are not deemed persuasive in view of the prior art as specifically applied in light of the level of skill in the pertinent art.

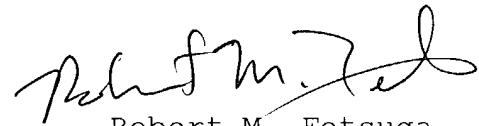
15. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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16. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 703/308-1506 who can be most easily reached Monday through Thursday.



Robert M. Fetsuga
Primary Examiner
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